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SENSITIVE  
SIPDIS

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TAGS: [EAIR](#) [ECON](#) [SENV](#) [UK](#)  
SUBJECT: UK TO PRESS EC FOR REMOVAL OF USG AIRCRAFT FROM EU  
EMISSIONS TRADING SCHEME

REF: A. A. SECSTATE 89892  
[1](#)B. B. WALKLET-TIGHE/JOHNSON E-MAILS AUGUST 28

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ACTION REQUEST in paragraph one.

[1](#)1. (SBU) UK transportation officials offered to lobby the European Commission (EC) in support of USG request (Ref A) to remove state airlines from the EU's Emissions Trading Scheme (ETS). The UK does not control the list, but understands USG desire to have our government flights - FAA, NASA and U.S. Marshals - treated like other state flights: exempt from ETS. ACTION REQUEST: UK officials have asked for additional information on the nature of the flights of the three entities, to better persuade Brussels the planes fall under existing exemptions. END SUMMARY

[1](#)2. (SBU) British Department for Transport (DfT) officials Phil Dykins, Head of Bilateral Relations, and Jeremy Hotchkiss, Head of Aviation Environment Division, told us on September 8 they understood USG concerns about the appearance of the FAA, NASA and U.S. Marshals Service on the EC's list of air carriers to be covered by the EU ETS. They admitted they were as in the dark as we are about the reasons why these flights were included on the list - which is generated and controlled by the EC's DG ENV - as we were, but would speak to the EC within a few weeks about the process and will convey our position. Dykins and Hotchkiss asked if the USG could supply additional details about the purposes of the various flights in order to better lobby for their placement under Annex 1 of the EU Directive's list of explicitly excluded flights. The British officials thought a fairly clear case could be made for the exemption of U.S. Marshals Service flights under paragraph (b) of the Annex as a "police flight". They also thought NASA flights could possibly be excluded under paragraph (g) for reasons of "scientific research". They were less clear, however, about the ability to exclude all FAA flights under the listed explicit exclusions, with the possible exception of those that met paragraph (f) criteria for "training flights."

[1](#)3. (SBU) We pressed the UK officials on the bigger picture argument that the USG believes prevailing international practice recognizes all government flights should be exempt, but the DfT representatives, while not denying that point, repeatedly returned to the tactic of seeking redress under the EU Directive's explicit exclusions. Dykins and Hotchkiss suggested the EC, which is required to update the list once per year, would want to clear this up as soon as possible, but would also not want to engage in piecemeal updates. Hotchkiss produced the full directive and noted Article 18, A, Paragraph 3.b requires the list contain the "best

available information", and that the EC "shall" update the list at least once per year. He pointed out nothing legally prevents the EC from updating the list more often. The DfT representatives said they would encourage the EC to take a flexible and practical approach in the early stages of the process.

14. (SBU) The British officials said the N-numbers of aircraft were only a concern if/when those specific planes operated in European airspace, and that Euro Control would be the proper point of contact. They promised to forward the information after looking into it further. The UK's Civil Aviation Authority could only find reference to nine of the N-numbers on the FAA list send in Ref B.

15. (SBU) The UK has not yet submitted to the EC all its regulations on the penalties (including seizure of aircraft) for non-compliance with ETS. According to DfT British laws require "effective enforcement . . . equally applicable to EU and non-EU" parties. DfT drafts of penalty amounts have been modified to include a longer, slower sanction process which builds up to the ultimate penalty of seizing a plane. The UK has submitted its Stage One regulations covering parties submissions of monitoring data; these measures will come into force in October. The Stage Two regulations covering airlines actual compliance with emissions allowance levels have not yet gone out for public consultations. Once in place the UK hopes to not have to use the seizure measures. The government is engaging in outreach to discuss the ETS and penalties in domestic and foreign aviation centers - with a plan to do one in Washington in the future.

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